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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,809	11/12/2003	C. Allen Smith	03768/09188DIV	6952

7590

11/25/2005

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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,809

Applicant(s)

SMITH ET AL.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/17/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. Applicant's election without traverse of Group II in the reply filed on 9/8/05 is acknowledged.
2. Claims 9-15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 9 the structure is not clear because no fibers are recited. Therefore, it is not clear whether Applicant is claiming a nonwoven comprising fibers made from the claimed composition or whether the instant claims would encompass a nonwoven web which comprised a film or coating of the claimed composition. Further, with regard to claims 10-13, it is not clear what is meant by narrow molecular weight distribution. What distribution would be considered narrow?
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. Claims 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Stehling et al, U.S. Patent No. 5,382,631. Stehling discloses polymer blends which may comprise components having a narrow molecular distribution. See abstract. The blend comprises linear ethylene. Suitable components for the blend include plastomer blend components in the density range of about 0.88-0.900 g/cc, very low density polyethylene blends components having a density in the range of 0.900 – 0.915 g/cc

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and linear, low density polyethylene blend components in the density range of about 0.915 – 0.940 g/cc. Example 5 discloses a composition where one component has a density of 0.884 g/cc and the other has 0.9348 g/cc and the components are present in equal parts. The resulting polymer can be extruded and formed into fibers and formed into nonwoven fabrics. See col. 24. The polymer can be formed into stretch films and therefore it is presumed to be elastic. Further, since the instant composition is identical to the claimed composition it would necessarily have the same properties and characteristics.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 600,482 in view of Stehling, U.S. Patent No. 5,382,631. EP '482 discloses a composition comprising a blend of a first ethylene alpha olefin which is present in amount of 50-99 % by weight having a density of 0.87 – 0.92 g/cc and a low density polyethylene with a density of 0.915 – 0.930 g/cc which is present in an amount of 2-50% by weight. EP '482 differs from the claimed invention because while EP '482 discloses forming films and coatings from the composition which can be combined with nonwovens, EP '482 does not explicitly teach forming the composition into nonwoven fabrics and also does not teach that the components have a narrow molecular weight

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distribution. Stehling teaches that blends of olefins having differing densities can be formed into films as well as into fibers for use in making nonwoven fabrics. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the composition of EP '482 to form fibers and nonwovens as well as films, motivated by teaching of Stehling that such compositions are suitable for forming both films as well as nonwoven. Stehling further teaches that it is desirable to use polymers having a narrow molecular weight distribution at col. 7, lines 27-48, because the narrow molecular weight distribution improves the melt processability and rheological characteristics of the blend. Therefore, it would have been obvious to have formed the blend of EP '482 so that it comprised a narrow molecular weight distribution, motivated by the teaching of Stehling that this would improve the properties of the blend.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

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A handwritten signature in cursive script, appearing to read "Elizabeth M. Cole".

Elizabeth M. Cole
Primary Examiner
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e.m.c